

ROBERT C. USHER)	
)	
Claimant-Respondent)	
)	
v.)	
)	
JONES OREGON STEVEDORING COMPANY)	DATE ISSUED:
)	
)	
Self-Insured Employer-Petitioner)	DECISION and ORDER

Appeal of the Compensation Order - Approval of Attorney Fee Application of
Karen P. Staats, District Director, United States Department of Labor.

Charles Robinowitz, Portland, Oregon, for claimant.

William M. Tomlinson (Lindsay, Hart, Neil & Weigler L.L.P.), Portland,
Oregon, for self-insured employer.

Before: HALL, Chief Administrative Appeals Judge, SMITH and DOLDER,
Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Compensation Order - Approval of Attorney's Fee Application (Case No. 14-97384) of District Director Karen P. Staats rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). The amount of an attorney's fee award is discretionary and may be set aside only if the challenging party shows it to be arbitrary, capricious, an abuse of discretion, or not in accordance with law. See, e.g., *Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant's counsel sought an attorney's fee of \$9,439.25, representing 50.25 hours of attorney services at \$175 per hour, and 4.75 hours of paralegal services at \$60 per hour, plus \$360.50 in expenses, for work performed before the district director in connection with claimant's disability claim for injury to his hip and knees sustained in a December 27, 1988 work accident with employer.¹ Employer filed objections. In her Compensation Order-

¹ Counsel initially requested \$7,503.75, representing 41.25 hours of attorney services at \$175 per hour and 4.75 hours of paralegal services at \$60 per hour, plus

Approval of Attorney Fee Application, the district director awarded counsel the entire requested fee. Employer appeals the district director's fee award on various grounds. Claimant responds, urging affirmance of the fee award.

Employer initially contends that the \$175 hourly rate requested by claimant's counsel and approved by the district director is excessive given the routine and uncomplicated nature of the case, and that claimant's counsel should receive an hourly rate of no greater than \$100, asserting that this rate is commensurate with the normal rate charged by other attorneys in the relevant locality at the time the services were rendered between 1993 and 1996. Employer also objects to the number of hours awarded, contending that the amount of time claimed for conferences and telephone communication with the claimant is excessive, that the overall time claimed is unreasonable and not commensurate with the necessary work done in the prosecution of the claim, and that the 2.5 hours claimed for conferring and writing letters to Dr. Fleming should have been disallowed as unnecessary because Dr Fleming provided treatment for a back injury totally unrelated to the present claim.

We affirm the \$9,439.25 fee awarded by the district director. After considering employer's objections, the district director found that both the \$175 hourly rate and total hours sought were reasonable given the complexity and duration of the case, and that claimant's counsel had adequately explained the necessity of the time claimed for conferences and obtaining evidence from Dr. Fleming.² Employer's objections to the number of hours and hourly rate awarded are rejected, as it has not shown that the district

\$360.50 in expenses. Counsel thereafter submitted two supplemental fee applications, requesting \$831.25, representing 4.75 hours of attorney services performed on November 21, 1995 at \$175 per hour, and \$743.75 for 4.25 hours of attorney services performed at an hourly rate of \$175.

²In responding to employer's objections, claimant explained that Dr. Zimmerman, who treated claimant's hip, and Dr. North, who treated claimant's knees, would not give an opinion regarding maximum medical improvement until they obtained an evaluation from Dr. Fleming as to whether claimant's December 27, 1988, work injury aggravated claimant's low back.

director abused her discretion in this regard. See *Ross v. Ingalls Shipbuilding, Inc.*, 29 BRBS 42 (1995); *Maddon v. Western Asbestos Co.*, 23 BRBS 55 (1989); *Cabral v. General Dynamics Corp.*, 13 BRBS 97 (1981).

Accordingly, the district director's Compensation Order-Approval of Attorney Fee Application is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge